

# STATE OF CONNECTICUT

**PERFORMANCE AUDIT  
DEPARTMENT OF LABOR  
RECEIVABLES**

**DECEMBER 5, 2002**

**AUDITORS OF PUBLIC ACCOUNTS**

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## EXECUTIVE SUMMARY

We have conducted a performance audit at the Department of Labor in accordance with the provisions of Section 2-90 of the General Statutes. We reviewed the following receivables of the Unemployment Compensation Fund: employer contributions and the related interest and penalty associated with this receivable, and claimants' benefit overpayments. We selected these receivables for our performance audit as a result of our observations made during our testing of the receivable balances for Generally Accepted Accounting Principles (GAAP). The Department considers the majority of the receivables selected for this performance audit to be uncollectible. Our objectives were to determine whether the mechanisms used to collect on established receivables were adequate and properly used, whether collection efforts were adequate, whether penalties and interest were imposed, and whether the collection of receivables were adequately pursued prior to their write-off.

The conditions noted during the audit, along with our recommendations, are summarized below.

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### Claimant Benefit Overpayments

- **Consider charging interest on outstanding balances**

**Recommendation 1:** The Department should consider charging interest on the outstanding balances of overpayments as an inducement for the claimants to pay off the outstanding amounts and as a deterrent to claimants who would collect unemployment compensation benefits they are not entitled to collect.

We found that the Department does not charge interest on fraudulent or non-fraudulent overpayments. We noted that 11 or 33 percent of the 33 claimants sampled had not made any payment on their outstanding balance for approximately ten months after the receivable was identified and entered on the system. We also noted that these claimants were employed and that the Department had mailed out proper notices to the claimants advising them of the overpayment.

- **Enforce the mandatory overpayment repayment schedule**

**Recommendation 2:** The Department should enforce the mandatory overpayment repayment schedules it establishes to ensure that claimants who were overpaid continue to make monthly payments in accordance with the terms of their schedules.

We noted that not all the claimants were making monthly payments in accordance with the established repayment schedule. Six of the 33 claimants we reviewed, or 18 percent, were making partial and intermittent payments far below the mandatory repayment amount required even though the claimants had wages reported to the Department.

- **Perform necessary procedures to promptly start wage garnishment proceedings**

**Recommendation 3:** The Department should promptly send a notice of noncompliance with the mandatory overpayment repayment schedule to claimants who were overpaid and have not made any payment or have stopped making payments on their overpayment. This would enable the Department to promptly start wage garnishment proceedings for those claimants in order to recoup the overpayment.

We noted that the Department has not sent a notice of noncompliance with the mandatory overpayment repayment schedule to eight of 33 claimants we reviewed. Five of the eight claimants were identified and entered on the accounts receivable system approximately six months after proper notices were sent to them, and ten months after the overpayments were identified. Also, three of the eight claimants were in default in making payments in accordance with the repayment schedule. The Department cannot apply for a wage garnishment until a notice of noncompliance is sent to the claimants.

- **Follow up on the enforcement of court approved wage garnishments**

**Recommendation 4:** The Department should establish and implement proper procedures to ensure that claimant's current employers are verified, and that the State Marshals promptly serve the approved court documents for wage garnishment to the correct employers to ensure that the claimants' wages are garnished.

Our review of eight approved wage executions found exceptions with five. These exceptions include a claimant who was no longer working for the employer, the court approved documents were served approximately two years after the State Marshals received the documents, and wage garnishments were sent to an incorrect employer.

- **State Marshals not remitting monies in accordance with Section 6-35 of the General Statutes**

**Recommendation 5:** The Department should establish a uniform administrative procedure for the levying officers to follow in remitting the amount collected from wage garnishments. The Department should ensure that the State Marshals are remitting collections from wage execution in accordance with the provisions of Section 6-35 of the General Statutes.

Section 6-35 of the General Statutes requires the State Marshals to pay any money collected by such Marshal on behalf of any person authorized to receive it, within 30 days from the date of collection of the money or upon the collection of one thousand dollars, whichever occurs first. We found that two wage executions given to two different State Marshals were remitted approximately one and a half years later.

- **Incomplete record sent for State income tax refund intercept of fraudulent claims**

**Recommendation 6:** The Department should amend the computer program to capture all claimants with fraudulent overpayment balances that were identified and entered on the accounts receivable system. Those claimants and their balance of overpayment should be

included in the accounts receivable list sent to the Department of Administrative Services' (DAS) – Financial Service Center for Department of Revenue Services (DRS) State income tax refund intercept.

We found that due to an error in the computer program that identifies fraudulent claims, the Department did not include \$7,664,209 of fraudulent claims on the list sent to DAS for DRS State income tax refund intercept.

- **Fraudulent overpayments to claimants who were employed were written off**

**Recommendation 7:** The Department should attempt to identify and collect all overpayments made to claimants who are employed. These overpayments should not be written off because they are eight years old or older.

We reviewed seven claimants who were fraudulently overpaid and were employed during calendar year 2000. The claimants have total earnings ranging from \$10,811 to \$55,954 and total overpayments ranging from \$5,212 to \$12,065. We found that the overpayments were written off when they became eight years or older without further collection attempts.

- **Seek legislation needed to recoup non-fraudulent overpayments through State income tax refund intercept**

**Recommendation 8:** The Department should seek legislation to amend Section 31-273, subsection (a) of the General Statutes and Section 31-273-3 of the Regulations of Connecticut State Agencies to have the provisions of Section 12-742 of the General Statutes that allows for interception of State income tax refunds, apply to non-fraudulent receivables.

The Department, as of May 23, 2001, had 13,905 non-fraudulent receivables amounting to \$17,520,916. None of these receivables were sent to DAS for DRS State income tax refund intercept because Section 31-273, subsection (a) of the General Statutes and Section 31-273-3 of the Regulations allows State income tax refund intercept of fraudulent receivables only. The State income tax refund intercept program has proven to be a low-cost effective collection tool for fraudulent receivables.

- **Administrative penalty not properly imposed**

**Recommendation 9:** The Department should impose the number of administrative penalty weeks for fraud, attempted fraud, and offenses in accordance with Section 31-273-6 of the Regulations of Connecticut State Agencies.

We found that two claimants out of 11 had administrative penalty weeks that were not consistently and correctly imposed.

## **Employer Contribution Receivables**

- **Department stops accruing interest on delinquent employers who file for Chapter 7 and Chapter 11 Bankruptcy**

**Recommendation 10:** The Department should continue to accrue interest on the unpaid contributions in accordance with the provisions of Section 31-265 of the General Statutes.

The Department stops accruing interest on delinquent employers who file for Chapter 7 or Chapter 11 bankruptcy even though the bankruptcy court has not determined the collectibility of the account. Section 31-265 of the General Statutes does not allow the Department to stop accruing interest when an employer files for bankruptcy.

- **Department not aware that required payments stopped**

**Recommendation 11:** The Department should track employers with outstanding balances of contributions, scheduled to make payments, in accordance with an approved Chapter 11 Bankruptcy Plan of Reorganization. This will ensure that the employers are making scheduled payments in accordance with the terms of the reorganization plan.

Our review found that an employer was scheduled to make payments in accordance with an approved Chapter 11 Bankruptcy Plan of Reorganization. However, the employer stopped making the payments in July 2000. As of March 2002, scheduled payments amounting to \$21,261 remain unpaid without accruing additional interest charges.

## **AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY**

### **Objectives:**

The Auditors of Public Accounts, in accordance with Section 2-90 of the Connecticut General Statutes, are responsible for examining the performance of State entities to determine their effectiveness in achieving expressed legislative purposes. We conducted a performance audit of the accounts receivable for the Unemployment Compensation Program at the Department of Labor in accordance with Generally Accepted Government Auditing Standards. The audit covered economy, efficiency and effectiveness issues, all of which are types of performance audits.

During our testing of Generally Accepted Accounting Principles (GAAP) Reporting to the State Comptroller, we found that the Department considers the majority of the receivables for the Unemployment Compensation Program to be uncollectible. Our review of GAAP reporting to the State Comptroller for the fiscal years ended June 30, 2000 and 2001, showed that 89 percent of the receivable for claimant benefit overpayments was uncollectible for each fiscal year. The GAAP report also showed for the fiscal years ended June 30, 2000 and 2001, that 76 percent and 70 percent, respectively, of the receivable for employer contributions was uncollectible. We considered these amounts to be significant. Our purpose was to determine if the receivables are being managed in a manner that will maximize collection of money owed to the Unemployment Compensation Program.

Our audit objectives were to:

- Determine whether the mechanisms used by the Department to collect on established receivables were adequate and properly used. For claimant benefit overpayment receivables, these mechanisms are offsets to future benefits, mandatory overpayment repayment schedule, wage garnishments, and State income tax refund intercept. For employer tax contributions, these mechanisms include tax warrants and liens on real and personal property.
- Determine whether collection efforts were adequate,
- Determine whether penalties and interest were being imposed on those who failed to pay receivables, and
- Determine whether receivables were adequately pursued by the Department prior to their write-off and that write-offs were made in accordance with State law.

### **Scope:**

The Department maintains accounts receivable from claimants' benefit overpayments and employer contributions and interest and penalty on its automated unemployment compensation system.

During June 30, 2000 and June 20, 2001, the Department recorded the following amounts as accounts receivable:

	<u><b>June 30, 2000</b></u>	<u><b>As of June 30, 2001</b></u>
Claimant benefit overpayments	\$33,086,593	\$34,972,976
Employer contributions	\$13,525,428	\$15,127,036
Penalty and interest on employer contributions	\$12,472,088	\$12,497,025

During the same period, the Department reported the following amounts as uncollectible:

	<u><b>June 30, 2000</b></u>	<u><b>As of June 30, 2001</b></u>
Claimant benefit overpayments	\$29,447,068	\$31,125,949
Employer contributions	\$10,329,599	\$10,572,301

The Department is not required to report penalty and interest on employer contributions for GAAP reporting. However, the Department estimates that 94 and 93 percent was uncollectible for the fiscal years ended June 30, 2000 and 2001, respectively.

The following amounts were written off:

	<u><b>During fiscal year ended June 30, 2000</b></u>	<u><b>June 30, 2001</b></u>
Claimant benefit overpayments	\$ 3,052,871	\$ 4,474,137
Employer contributions	\$ 2,520,227	\$ 2,135,479
Penalty and interest on employer contributions	\$ 1,296,207	\$ 1,508,829

**Methodology:**

To accomplish our objectives, we reviewed the related Connecticut General Statutes and Regulations of Connecticut State Agencies, and our prior audit workpapers. We reviewed written Department policies and procedures. We interviewed staff members involved with the receivables to obtain an understanding of the Unemployment Compensation Program, how the receivables are established, each of the collection methods used by the Department, and the procedures followed to write off receivables.



## **BACKGROUND**

The Department of Labor operates primarily under the provisions of Title 31 of the General Statutes. The Department's major function is to administer the Unemployment Compensation Program. This program provides monetary benefits to the totally or partially unemployed based upon the claimant's employment and wage history as provided in the Federal Unemployment Tax Act and Titles III, IX and XII of the Social Security Act. These benefits are financed by employer's contributions collected by the Department. Section 31-225 of the General Statutes requires employers to pay the Administrator (Labor Commissioner) contributions at a rate established and adjusted in accordance with the provisions of Section 31-225a of the General Statutes. Section 31-227 of the General Statutes authorizes the Administrator to pay Unemployment Compensation benefits to eligible claimants.

### **Employer Contributions**

The Department, through its Employer Status Unit, identifies those employers who are liable for unemployment contributions. Each liable employer is charged a contribution rate that is established on a calendar year basis. A newly liable employer may be charged with a contribution rate that has been established by the Department for new employers. The contribution rate for other than newly liable employers consists of a percentage, which is the sum of two rates: the employer's charged, or experience rate and the fund balance tax rate. The charged or experience rate is a benefit ratio calculated by dividing the total benefit payments charged to the employer's account during the experience period (three years) by the total taxable wages paid by the employer during the same period. The fund balance tax rate is the same for all employers and is based on the Fund Solvency Ratio. The Fund Solvency Ratio is determined by dividing the balance in the Unemployment Trust Fund as of the preceding September 30<sup>th</sup> by the total taxable wages reported by all employers during the experience year ending June 30<sup>th</sup> of the same year. Upon determining the contribution rate, the Department notifies the employers of the new rate approximately one month prior to the due date of the employer quarterly contribution return and payment of unemployment tax. The contribution rate is multiplied by the employer's taxable wages to determine the employer's tax liability.

Section 31-262 of the General Statutes authorizes the Administrator to make all employer contributions payable into the Unemployment Compensation Fund. Employers send contributions to a lock box for deposit into the Unemployment Compensation clearing account. The State Treasurer is required to transfer these deposits in the clearing account to the Federal Unemployment Compensation Trust Fund, established by Section 904 of the Social Security Act. The Administrator, through the State Treasurer, withdraws funds from the Federal Unemployment Compensation Trust Fund, in order to pay unemployment compensation claims in accordance with Section 31-227 of the General Statutes. The withdrawal is deposited into the Unemployment Compensation Benefit Fund Checking Account.

Section 31-265 of the General Statutes states that contributions unpaid on the date on which they are due and payable shall bear interest after such date until payment, plus accrued interest, has been received by the Administrator. A penalty is also charged on contributions not paid within thirty days of their quarterly due date. The interest and penalties on past due contributions are deposited into the Employment Security Special Administration Fund to be used to defray the Department's administrative costs.

Accounts receivable from employer contributions rise due to employers failing to file quarterly contribution returns. Accounts receivable also rise due to the discontinuance of operations by businesses with unpaid unemployment contribution tax. Accounts receivable also result from the reclassification by the Department's Field Audit Unit of wages reported by employers following audits of the employers' records that leads to the charging of additional unemployment contribution tax.

The Administrator can use any means provided by law to collect any tax due the State according to Section 31-266 of the General Statutes. The Department has established several collection procedures for the collection of accounts receivable due from employer contributions. A billing statement is sent to employers identified as having valid receivables and then the receivable is entered in the Department's Delinquent Account Unit (DAU) log. Payments from employers are sent directly to a lock box. For accounts receivable greater than \$1,000, the Department attempts to collect on the receivable by placing a garnishment lien on the debtor's bank account or personal property or by placing a real property lien on the debtor's identified assets. The Department also refers the accounts receivable to the Attorney General's Office or a collection agency. Accounts that prove to be ultimately uncollectible are referred to the Attorney General's Office for abatement, in accordance with the provisions of Section 31-266c of the General Statutes. Accounts receivable that are \$1,000 or less and uncollectible, can be canceled by the Department in accordance with Section 3-7 of the General Statutes.

### **Claimant Benefit Overpayment**

The process for filing unemployment compensation is as follows. Upon separation from employment, regardless of the reason, an employer must provide its employee with an Unemployment Notice (UC-61). This notice provides the individual with information regarding filing a claim for unemployment benefits.

An individual must be determined to be eligible by the Department before benefits can be received. A basic eligibility requirement is that the claimant must have been employed and have received income from the employment. Another basic requirement is that the claimant must be totally or partially unemployed, due to qualifying reasons, at the time of filing for unemployment. The Department determines the claimant's unemployment compensation benefits using the wages the claimant earned during a one-year period called the base period. The base period is the first four of the five completed calendar quarters immediately preceding the quarter in which the claimant first filed for benefits. The claimant must have earned at least 40 times his weekly benefit rate during the base period in order to be eligible to receive unemployment compensation benefits. When the claimant is determined to be eligible, the employer is also notified since the employer's unemployment compensation tax account is charged for the amount of benefits that the employee receives. The employer is notified of his appeal rights. The Employment Security Appeals Referee, the Board of Review, and the Superior Court, in this order, decide the final disposition of the Administrator's eligibility determination if the employer appeals the claimant's eligibility decision.

Claimant overpayment receivables result from overpayments of unemployment compensation benefits made to claimants. These overpayments are classified by the Department as either non-fraudulent or fraudulent and are discussed below.

***Non-fraudulent overpayments:***

Non-fraudulent overpayments occur mainly due to the reversal by the Employment Security Appeals Referee and the Board of Review of the Department's eligibility determination. Non-fraudulent overpayments also occur due to Departmental errors in making initial eligibility determinations as well as errors by the claimants and employers. When a non-fraudulent overpayment is identified, the Department's Benefit Payment Control Unit (BPCU) sends a preliminary notice of the overpayment to the claimant as well as information on his right to appeal. The claimant can either pay the amount owed, request a hearing, or ask for a waiver. If it is determined that the claimant owes and must pay the overpayment, the amount is entered on the Department's accounts receivable system. If no payment is received since the claimant failed to respond, the Department will send a notice of noncompliance and a mandatory overpayment repayment schedule to the claimant. The Department's benefit payment system is then set to offset any subsequent claims filed by the claimant. The system will offset up to fifty percent of any subsequent claims filed by the claimant and applies the benefit payment toward the overpayment to reduce the outstanding balance. If the offset is not enough to recover the full amount of the overpayment, the Department applies for a wage garnishment when the claimant becomes employed.

***Fraudulent overpayments:***

Fraudulent overpayments occur mainly as a result of claimants becoming employed and continuing to collect unemployment compensation benefits they no longer are eligible to collect. The primary method the Department uses to detect overpayments is cross matches. There are two types of cross matches: a new hire cross match and a quarterly cross match. For the new hire cross match, employers are required to submit to the Department the names, addresses, and social security numbers of new employees in accordance with Section 31-254, subsection (b) of the General Statutes. The Department cross-matches the hire date, as provided by the employer, with the claimant's payment file. The Department is then able to stop further payments to a claimant until it can be determined whether the claimant is fraudulently filing for unemployment compensation benefits. For the quarterly cross match, the Department requires employers in the State to file and send quarterly wage information in accordance with the provisions of Section 31-222-7 of the Regulations of Connecticut State Agencies. When this information is filed, the Department matches it with the wage screen to identify claimants who collected unemployment compensation benefits while employed during the quarter. The BPCU then sends a request for Certification of Earnings (UC1124-B) to the employers to obtain the claimants' total earnings from employment. This information allows the BPCU to perform a return to work cross-match with claims filed by the claimant and to determine the total amount of the overpayment.

Once an overpayment is identified, the Department's BPCU sends a preliminary notice to the claimant asking the claimant to do one of the following: pay the amount owed, ask for a waiver if applicable, or request a hearing. In addition to the overpayment, a claimant that commits fraud is also assessed an administrative penalty. The administrative penalty is in benefit weeks. The claimant forfeits benefits for not less than two weeks and not more than 39 weeks. If it is determined that the claimant owes and must pay the overpayment, the amount and penalty are entered on the Department's accounts receivable system. If the claimant does not respond to the notice, the BPCU will send a notice of noncompliance and a mandatory repayment scheduled to the claimant. The benefit system is also set to offset any subsequent claims filed by the claimant. The system offsets 100 percent of the claimant's subsequent

benefits until the administrative penalty and overpayment are paid in full. If the offset is not enough to recover the full amount of the overpayment, the Department applies for a wage garnishment when the claimant becomes employed. The Department also attempts to collect on fraudulent receivables by the use of the State income tax refund intercept.

## RESULTS OF REVIEW

<b>SECTION 1: Claimant Benefit Overpayments Receivable</b>
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### **Lack of an interest charge:**

Our review of claimant benefits overpayments found that the Department does not charge interest on the outstanding balance of overpayments.

*Criteria:* Good business practice requires that interest be charged on unpaid balances after a grace period.

*Condition:* The Department does not charge interest on fraudulent or non-fraudulent overpayments. During our review of the individual claimant benefits overpayment receivables, we noted that 11 or 33 percent of the 33 claimants sampled had not made any payment on their outstanding balance for approximately ten months after the receivable was identified and entered on the system. We also noted that these claimants were employed and that the Department had mailed out proper notices to the claimants advising them of the overpayment.

*Effect:* There is no incentive for the claimants to pay off the overpayment because the outstanding balance does not accrue monthly interest charges.

*Cause:* The Department has not considered assessing interest charges on the outstanding balance of accounts receivable resulting from overpayments to claimants who either collected fraudulent or non-fraudulent unemployment compensation benefits.

*Recommendation:* The Department should consider charging interest on the outstanding balances of overpayments as an inducement for the claimants to pay off the outstanding amounts and as a deterrent to claimants who would collect unemployment compensation benefits they are not entitled to collect. (See Recommendation 1).

*Agency Response:* “The Agency agrees with the general premise that charging interest on the unpaid balance of overpayment accounts may encourage individuals to repay in a more timely fashion. The Agency submitted to the legislature during this most recent session a bill [House Bill 5577] that would allow interest to be charged to the unpaid balance of overpayment accounts resulting from fraud. The bill was not acted on during the [2002] regular session of the General Assembly, but may be considered during the impending special session.

The Auditors’ finding recommends interest be accrued to any outstanding overpayment balance. In crafting its legislative proposal,

the Agency determined that it would recommend that only overpayments resulting from fraudulent actions be subject to interest accrual. This decision was made after considerable discussion regarding the various causes of non-fraudulent overpayments and the likelihood of adoption by the legislature.”

**Compliance with mandatory overpayment repayment schedule:**

We found that there was a lack of compliance with the Department’s mandatory overpayment repayment schedule.

*Background:* Once a final determination is made that a claimant is overpaid, a notice is sent to the claimant to repay the sum in full. If the claimant does not repay the amount owed to the Department, the overpayment is offset from future unemployment compensation benefits per statute. For non-fraudulent overpayments, the offset is no greater than 50 percent of the claimant’s weekly benefit amount. For fraudulent overpayments, the offset is 100 percent of the claimant’s weekly benefit amount until paid in full. If the offset is insufficient to recoup the full amount of the overpayment, the Department establishes a mandatory overpayment repayment schedule that sets the minimum amount of overpayment that claimants are required to pay back monthly.

*Criteria:* According to Section 31-273 of the General Statutes, any person with respect to whom a final determination of overpayment has been made, shall be given notice of such determination. If a determination is made that the overpayment shall be recouped by offset from unemployment compensation benefits and the offset is insufficient to recoup the full amount of the overpayment, the claimant shall repay the remaining amount in accordance with a repayment schedule.

*Condition:* During our review to determine whether claimants who were overpaid were making regular payments in accordance with the mandatory overpayment repayment schedule, we noted that not all the claimants were making monthly payments in accordance with the established repayment schedule. Six of the 33 claimants we reviewed, or 18 percent, were making partial and intermittent payments far below the mandatory repayment amount required even though the claimants had wages reported to the Department. For example, two of the claimants reviewed, whose employers reported a total average wage for each employee of \$9,855 and \$8,115, respectively, during the third and fourth quarters of calendar year 2000, were each fraudulently overpaid in the amount of \$4,082 and \$5,093, respectively. According to the Department’s mandatory repayment schedule, each claimant was required to pay \$200 per month. However, the claimants were only paying \$25 and \$50 per month, respectively.

- Effect:* The Department is receiving monthly or intermittent payments significantly less than the established monthly amount required from claimants who were fraudulently overpaid.
- Cause:* Department personnel indicated that the claimants are making payments each month or from time to time. Although the amount of payment is less than the required mandatory overpayment repayment amount, the Department stated that the claimants are allowed to continue to pay as much as they can as long as they are paying something.
- Recommendation:* The Department should enforce the mandatory overpayment repayment schedules it establishes to ensure that claimants who were overpaid continue to make monthly payments in accordance with the terms of their schedules. (See Recommendation 2).
- Agency Response:* “The Department supports this recommendation to improve enforcement of the established repayment schedule. In October 2001, the overpayment collections function was automated as part of a conversion of the UI benefits system from Unisys to IBM. As a result, the repayment schedule and noncompliance letters are now sent out automatically, when the regulatory criteria are met. In addition, a listing for potential wage garnishment is generated. The Agency is pursuing further automation of the collections function, including the addition to the monthly statement of the mandatory repayment amount (to remind the overpaid individual of the established amount). We will also request a report that lists individual social security numbers from whom cash has been received and input into the collection system for an amount that is less than the required repayment figure. This report will allow BPCU staff to take the necessary steps to contact the individual and enforce the repayment schedule.”

**Notice of noncompliance with mandatory overpayment repayment schedule:**

The Department is not sending a notice of noncompliance to claimants who are not making payments in accordance with the mandatory repayment schedules.

- Criteria:* According to Section 31-273 of the General Statutes, any person with respect to whom a determination of overpayment has been made shall be given notice of such determination and the provisions for repayment or recoupment of the amount overpaid. The Department’s procedural manual for recovery of overpayments requires that a final overpayment decision, mandatory repayment schedule, and notice of noncompliance be sent to the claimant before applying for a wage garnishment.
- Condition:* We noted that the Department has not sent a notice of noncompliance with the mandatory overpayment repayment schedule to eight of 33 claimants we reviewed. Five of the eight claimants were identified

and entered on the accounts receivable system approximately six months after proper notices were sent to them, and ten months after the overpayments were identified. Also, three of the eight claimants are in default in making payments in accordance with the repayment schedule.

*Effect:* The Department cannot apply for a wage garnishment from the court for claimants who were overpaid and whose employment has been verified until the notice of noncompliance with the mandatory repayment schedule is sent to those claimants.

*Cause:* The Department personnel assigned this duty of sending out notices of noncompliance claim that they have not been able to send the notice to all the claimants due to a large volume of claimants who are not in compliance with the mandatory repayment schedule.

*Recommendation:* The Department should promptly send a notice of noncompliance with the mandatory overpayment repayment schedule to claimants who were overpaid and have not made any payments or have stopped making payment on their overpayment. This would enable the Department to promptly start wage garnishment proceedings for those claimants in order to recoup the overpayment. (See Recommendation 3).

*Agency Response:* “As part of the Agency’s migration from UNISYS to IBM in October 2001, Benefit Payment Control’s programming was amended to better enforce the mandatory repayment schedule. The computer system now reviews all overpayments made on or after 10/1/95 for repayments. In situations where the claimant has not made a repayment in seventy days, the system automatically sends out a non-compliance letter to the claimant. If another 35 days elapse without a repayment activity, the claimant’s name appears on a list of potential wage garnishments, which is reviewed daily by our collections unit. Previously, all non-compliance letters were manually generated.”

### **Enforcement of wage garnishments:**

We found that once the court approved wage garnishments, the Department did not always follow up on the enforcement of some of the wage garnishments.

*Background:* When the claimant does not repay according to the mandatory repayment schedule, the Department sends the claimant a final notice of noncompliance and applies for a wage garnishment. The Department verifies employment of the claimant on its wage files before applying for a wage garnishment. If it is determined that the claimant is employed and earns at least minimum wage, the Department assembles a wage garnishment packet for court approval. Once the court approves the document, it is sent to one of the State Marshals (formerly called Deputy Sheriffs prior to the enactment of



Public Act 00-99, An Act Reforming the Sheriff System, effective December 1, 2000), depending on where the claimant's employer is located, to serve the employer so that a wage garnishment can be placed on the claimant's wages.

*Criteria:*

According to Section 31-273, subsection (a) and Section 31-273, subsection (b) of the General Statutes, if a claimant charged with an overpayment of unemployment compensation benefits fails to repay according to a repayment schedule, the administrator may recover such overpayment through a wage execution against the claimant's earnings upon his return to work. Section 52-361a of the General Statutes authorizes a clerk of the Superior Court to issue a wage execution, directed to a levying officer, to enforce the payment of the amount owed to the creditor. The wage execution should be served within one year from its issuance.

Good business practice requires that the Department have adequate controls in place to determine if the wage garnishment was served to the correct employer and within the required time period.

*Condition:*

We reviewed eight court approved wage executions to determine whether the claimants' current employer was served the court approved documents to garnish the claimants' wages. We also reviewed the accounts receivable system to determine whether the Department is receiving monthly remittance from the State Marshals for amounts collected from the claimants' employers. We noted the following exceptions for five of the eight approved wage executions as a result of our review:

- Three employers were not served the court approved document to garnish claimants' wages approximately two years after the documents were given to the State Marshals.
- One claimant no longer works for the employer to whom the State Marshals were to serve the court approved notice of wage garnishment.
- One notice of wage garnishment was sent to an incorrect employer.

*Effect:*

The Department is not recovering as much overpayment from wage garnishment as it can because the approved court documents were not served to the claimants' current employers or were not served at all. The Department cannot rely on the procedures currently being used to verify the claimants' current employers to ensure that the State Marshals served the court approved documents to the correct employers.

*Cause:*

The Department has not evaluated the procedures used to serve wage garnishment notices to employers to determine its effectiveness in ensuring that the wage garnishment was served and was served to either the correct or current employer.

*Recommendation:* The Department should establish and implement proper procedures to ensure that claimants' current employers are verified, and that the State Marshals promptly serve the approved court documents for wage garnishment to the correct employers to ensure that the claimants' wages are garnished. (See Recommendation 4).

*Agency Response:* "The Department recognizes that some of the issues surrounding the State Marshal's accountability have been unclear in the past. Since the October 2001 reorganization of this function within the Judicial Department, wage garnishment performance has improved. The Department will establish procedures to follow up on cases that have been referred for wage garnishment. Additional automation will be requested and implemented that will provide listings of cases where a wage garnishment has been served but no cash has been input into the system after a certain number of days. The appropriate State Marshal may then be contacted to verify that the overpayment recovery is forthcoming."

#### **Remittance of wage garnishments from State Marshals:**

There is a lack of enforcement of the provisions of Section 6-35 of the General Statutes and uniform administrative procedures for remittance of collections by the State Marshals from wages garnished by the employers.

*Criteria:* Section 6-35 of the General Statutes requires the State Marshals to pay any money collected by such Marshal on behalf of any person authorized to receive it, within 30 days from the date of collection of the money or upon the collection of one thousand dollars, whichever occurs first.

*Condition:* Our review of remittances by the State Marshals to the Department showed that the Department has not established a uniform administrative procedure for the State Marshals to follow in remitting the amount collected from wage garnishment. Some State Marshals remit collections on a monthly basis while others wait until the full amount of the judgment is collected before making remittance to the Department. Our review showed that there is no way to determine when the State Marshals collected the garnishment in full. We found collections on two wage executions given to two different State Marshals on August 30, 1999, and November 1, 1999, respectively, were remitted to the Department on May 1, 2001, and April 30, 2001, respectively. Also, it is sometimes unclear from Department records the portion of the garnishment retained by the State Marshals as fee for services. We found some of the State Marshals retain 10 percent of the total amount owed while others retain more than 10 percent of the amount owed.

- Effect:* Remittances by the State Marshals, of collections of overpayments from claimants whose wages were garnished did not occur in a uniform manner as prescribed by the Statute.
- Cause:* The Department has not enforced the provisions of Section 6-35 of the General Statutes that established the timetable for remittance of amounts collected by the State Marshals from wage executions.
- Recommendation:* The Department should establish a uniform administrative procedure for the levying officers to follow in remitting the amount collected from wage garnishments. The Department should ensure that the State Marshals are remitting collections from wage executions in accordance with the provisions of Section 6-35 of the General Statutes. (See Recommendation 5).
- Agency Response:* “The Department will contact the Judicial Department to begin working together on standardizing and improving procedures for marshals serving wage executions on employers in unemployment compensation cases.”

*Auditors’ Concluding Comments:*

State Marshals are independent contractors and are not employed by the Judicial Department. The Department needs to communicate to each State Marshal the fee to be retained by the State Marshal and the time period in which the Department expects remittance of collections from wage executions.

**Incomplete record for State income tax refund intercept:**

We noticed that an incomplete record of fraudulent overpayments was being sent to the Commissioner of Administrative Services, Bureau of Collection Services, for State income tax refund intercept of fraudulent claims.

- Background:* The Unemployment Compensation Administrator enters all identified cases of overpayment in the Department’s accounts receivable system. A report of fraudulent overpayments is generated and updated every month. Upon updating the list, the list is sent monthly to the Department of Administrative Services’ (DAS) - Financial Services Center. This list is then sent by (DAS) to the State Department of Revenue Services (DRS), for State income tax refund intercept of claimants who have fraudulent unemployment compensation benefits overpayment balances.
- Criteria:* According to Section 31-273, subsection (b)(1) of the General Statutes, the Unemployment Compensation administrator may request the Commissioner of Administrative Services to seek reimbursement for fraudulent overpayments. Section 12-742 of the General Statutes authorizes the Commissioner of Administrative Services to withhold

the payment of a refund to a person where the person is due a refund of State income taxes, and that person owes a debt or obligation for which the Commissioner of Administrative Services is seeking reimbursement.

*Condition:* During our review of 23 claimants with an outstanding fraudulent unemployment compensation benefits overpayment balance, we noted that 14 or 60 percent of the claimants were not included on the list sent to the Commissioner of DAS, for State income tax refund intercept. The Department identified these claimants as having been overpaid ten months prior to our review. The Department's April 2001 report of outstanding fraudulent overpayment receivables sent to DAS showed only \$13,071,622 as the total amount of overpayments that the DRS could intercept. However, we determined that as much as \$20,735,831, a difference of \$7,664,209, could have been sent to DAS for DRS State income tax refund intercept.

*Effect:* The Department is not intercepting as many refunds as possible.

*Cause:* The Department was unaware that all fraudulent overpayments currently identified and entered on the accounts receivable system were not being included on the list of claimants with outstanding balance of fraudulent overpayment for dispatch to DAS for DRS State income tax refund intercept. The computer program used to identify claimants who were fraudulently paid only allowed fraudulent overpayments with certain attributes to be printed for review and dispatch to DAS for DRS State income tax refund intercept.

*Recommendation:* The Department should amend the computer program to capture all claimants with fraudulent overpayment balances that were identified and entered on the accounts receivable system. Those claimants and their balance of overpayment should be included in the accounts receivable list sent to the DAS for DRS State income tax refund intercept. (See Recommendation 6).

*Agency Response:* "In accordance with the recommendation that was made to our Department in the summer of 2001 [by the staff of the State Auditors], we amended the computer program on 9/10/01 to ensure that all fraudulent overpayment balances were sent to DRS. Before the change, only balances with outstanding administrative penalty weeks were included."

#### **Account Receivable write offs:**

Our review of accounts receivable that were written off by the Department revealed that the individuals had earnings from employment.

*Criteria:* According to Section 31-273, subsection (a) and Section 31-273, subsection (b) of the General Statutes, the administrator is authorized

to write off any claim that is deemed uncollectible eight years after the payment of the nonfraudulent or fraudulent benefit.

Accounts receivable are deemed uncollectible, and written off only after reasonable efforts have been made to ensure that the claimant has no income and that the overpayment would not be recovered.

*Condition:*

During the June 30, 2000 fiscal year, the Department wrote-off 3,249 fraudulent claims totaling \$3,052,871 and 3,322 non-fraudulent claims totaling \$4,474,137 in accounts receivable due to unemployment compensation benefits overpayment. The transactions for these overpayments occurred during the 1991 benefit year or earlier. We randomly reviewed seven of the fraudulent overpayments written off to determine whether the claimants had wages before the overpayments were identified and included on the list for write-off. Our review of the Department's wage records revealed the following:

<u>Claimant #</u>	<u>Balance written off</u>	<u>Wages in calendar year 2000</u>
1	\$12,065	\$46,816
2	9,867	27,400
3	8,407	27,890
4	6,624	33,640
5	6,690	55,954
6	5,612	35,531
7	<u>5,212</u>	10,811
	\$54,477	

Our review also showed that the Department did not make any further collection efforts to recover the overpayments before the overpayments were identified as being eight years or older and written off.

*Effect:*

The Department included in the amount of uncollectible accounts written off, \$54,477 in fraudulent unemployment compensation benefit overpayments paid to claimants who were employed.

*Cause:*

Previously, the Department deemed as uncollectible, overpayments to claimants whose wages on the wage file were less than \$10,000, the overpayment was six years or older, and no repayment activity occurred on the account in the last nine months. The Department later changed the procedure to identify uncollectible overpayments to exclude wage parameters and to write off all overpayments occurring during a benefit period that was eight years old or older.

Public Act 95-323, codified as Section 31-273 of the General Statutes, became effective October 1, 1995, and allowed the Department to only recoup overpayments using mandatory repayment schedules and wage execution for overpayments established on and after that effective date. As a result, overpayments prior to October 1, 1995, were only

being recouped by offset against future benefits and the State income tax refund intercept program.

*Recommendation:* The Department should attempt to identify and collect all overpayments made to claimants who are employed. These overpayments should not be written off because they are eight years old or older. (See Recommendation 7).

*Agency Response:* “By Statute, overpayments established before 1995 are not subject to mandatory repayment schedules or wage garnishment. Our ability to recover overpayments in these cases is limited to offset from current unemployment insurance benefits if the individual is filing or making voluntary payments. We send monthly notices of outstanding balances to all such individuals. In deciding which accounts to write off, the Agency considers if the individual has received UI within the past two years of fraud, or one year if non-fraud, or has made a voluntary payment. Such cases will not be written off. The fact that the individual is employed is not considered since we cannot enforce a repayment schedule or garnish wages for overpayments established before October 1, 1995. If an individual were inclined to pay, he would have already made some effort as a result of the monthly notice. Obviously, once eight year old overpayments coincide with a timeframe in which they were established after October 1, 1995, the Agency’s guidelines for writing off overpayments will be adjusted to consider current employment since there will be more collection tools (including wage garnishment) available for enforcing repayment obligations for these cases.

The Agency will implement programming through its automated systems to track current employment for such cases. If we have not been able to send monthly billing notices due to lack of a current address, we will contact the employer to solicit the current address for the individual so that we can insure that monthly billing notices can be sent.”

*Auditors’ Concluding Comments:*

We do not believe that it is a good policy to write off an account as uncollectible when the claimant has income from employment. The collection policies appear to be lenient since the Department states that if a claimant is not inclined to pay then the claimant’s receivable is eligible for write off. In addition, we obtained memorandum 270.01 “Procedures Relating to State Income Tax Intercept” dated February 21, 1996 from the Department’s Intranet. This memo states that Public Act 95-323 “authorizes intercept of any outstanding fraud overpayment regardless of when it became final.” Therefore, the fraudulent claims in our sample should not have been written off.

**Recoup non-fraudulent overpayments using State income tax refund intercept:**

The Department is not authorized by the General Statutes to recoup non-fraudulent overpayments through State income tax refund intercept.

*Criteria:* Section 12-742 of the General Statutes authorizes the Commissioner of Administrative Services to withhold the payment of a refund to a person where the person is due a refund of State income taxes, and that person owes a debt or obligation for which the Commissioner of Administrative Services is seeking reimbursement.

*Condition:* During the June 30, 2000, fiscal year, the Department wrote off a total of 3,322 non-fraudulent overpayment receivables totaling \$4,474,137. As of May 23, 2001, the Department has 13,905 non-fraudulent receivables amounting to \$17,520,916. None of these receivables were sent to the Commissioner of DAS for dispatch to the DRS for State income tax refund intercept.

The State income tax refund intercept program has proven to be an effective collection method for fraudulent overpayments. For the 2000 calendar year, the Department collected approximately \$673,000 by using this method for fraudulent overpayment receivables. The dollar amount collected should increase in the subsequent year when the Department implements Recommendation 6.

*Effect:* Receivables are written off that can possibly be collected through State income tax refund intercept.

*Cause:* When Public Act 95-323, which became effective on October 1, 1995, was enacted, the Department did not include the State income tax refund intercept of non-fraudulent receivables in the legislation.

*Recommendation:* The Department should seek legislation to amend Section 31-273, subsection (a) of the General Statutes and Section 31-273-3 of the Regulations of Connecticut State Agencies to have the provisions of Section 12-742 of the General Statutes that allows for interception of State income tax refunds, apply to non-fraudulent receivables. (See Recommendation 8).

*Agency Response:* “It is the position of the Department that Public Act 95-323 reflected a legislative viewpoint that only overpayment obligations attributable to claimant fraud should be subject to the State income tax intercept. Given the range of variables which may contribute to an overpayment resulting from Referee reversal or error, the exclusion of this category from the tax intercept provisions of Section 12-742 was, in our view, purposeful and the Department does not plan to advocate for legislative amendment.”

*Auditors' Concluding Comments:*

The State income tax refund intercept has proved to be a low-cost effective means of collecting overpayments especially from claimants who are employed and must file State income tax returns annually. The Department currently uses the methods of offset, mandatory overpayment repayment schedule, and wage execution to collect nonfraudulent overpayments. In order for the Department to collect by using offset, the claimant must be unemployed. If the claimant is employed, the methods of mandatory overpayment repayment schedule and wage execution are used and involve more administrative work by Department staff than the use of the State income tax refund intercept program.

**Administrative penalty:**

Our review of the administrative penalty imposed by the Department on claimants who fraudulently collected unemployment compensation benefits found that the Department was not imposing the proper penalty.

*Criteria:*

According to Section 31-273-6, subsection (a) and (b) of the Regulations of Connecticut State Agencies, when the Administrator determines that any individual has “made a claim for benefits and knowingly made a false statement or representation or knowingly failed to disclose a material fact in order to obtain benefits or to increase the amount of benefits, ... such individual shall forfeit benefits for not less than two nor more than thirty-nine compensable weeks following the determination of the offense or offenses. ... The number of weeks of benefits to be forfeited shall be the lesser of the number of weeks of benefits fraudulently claimed multiplied by two, up to thirty-nine weeks, or that number of weeks which corresponds to the total dollar amount fraudulently claimed on the Administrative Penalty Table.” The Administrative Penalty Table is located in Section 31-273-6, subsection (c) of the Regulations of Connecticut State Agencies.

According to Section 31-273-6, subsection (d) of the Regulations of Connecticut State Agencies, notwithstanding Section 31-273-6, subsection (b) above, “where an individual increases or attempts to increase the dollar amount of benefit check issued by the Administrator, the Administrator shall impose a penalty of two weeks of forfeited benefits for each check which the individual increases or attempted to increase.”

According to Section 31-273-6, subsection (f) of the Regulations of Connecticut State Agencies, when the Administrator has found that an individual has committed a prior offense, an additional penalty of five weeks of benefits should also be imposed.



*Condition:* We noted the following exceptions for two claimants as a result of our review of administrative penalty weeks imposed on eleven claimants who fraudulently collected unemployment compensation benefits.

The Department imposed a penalty of 20 weeks on a claimant on March 23, 2000, for fraudulently collecting \$918 in benefits as a result of an audit conducted by the Benefit Payment Control Unit (BPCU). The audit showed that the \$918 was collected over 16 weeks. Also, during this same audit and for some of the same weeks, the BPCU determined that the claimant fraudulently attempted to collect \$1,055 for 24 benefit weeks. According to Section 31-273-6, subsection (b) of the Regulations of Connecticut State Agencies, the lesser of 32 or 10 weeks per the Administrative Penalty Table should be imposed. In addition, according to Section 31-273-6, subsection (d), since the individual increased or attempted to increase benefits for 24 benefit weeks, 48 weeks should have been imposed. Since Section 31-273-6, subsection (a) only allows for a maximum of 39 weeks of penalty, the maximum 39 weeks should have been imposed for this claimant. It should also be noted that the Department imposed a penalty of 6 weeks on the same claimant on February 22, 2001, for fraudulently collecting \$578 in benefits over four weeks as a result of another audit conducted by the BPCU. According to Section 31-273-6, subsection (b) of the Regulations of Connecticut State Agencies, the lesser of eight or six weeks should be imposed. In addition, since the claimant had committed a prior offense, the \$918 mentioned above, an additional penalty of five weeks should have been imposed in accordance with Section 31-273-6, subsection (f) of the Regulations of Connecticut State Agencies.

For another claimant, the Department imposed a penalty of two weeks on a claimant who fraudulently collected \$300 in benefits for 12 weeks. According to Section 31-273-6, subsection (b) of the Regulations of Connecticut State Agencies, the lesser of 24 or four weeks per the Administrative Penalty Table should have been imposed.

*Effect:* The Department is not consistently and correctly imposing the administrative penalty weeks in accordance with the provisions of Section 31-273-6 of the Regulations of Connecticut State Agencies, on claimants who fraudulently collected unemployment compensation benefits.

*Cause:* The Department was not aware that an incorrect number of administrative penalty weeks were imposed on claimants who fraudulently collected unemployment compensation benefits.

*Recommendation:* The Department should impose the number of administrative penalty weeks for fraud, attempted fraud, and offenses in accordance with

Section 31-273-6 of the Regulations of Connecticut State Agencies. (See Recommendation 9).

*Agency Response:* “The Department acknowledges the errors identified in this audit finding and will examine ways to eliminate future inconsistencies in the imposition of administrative penalty weeks.”

## **SECTION 2: Employer Contribution Receivables**

### **Interest Accruals:**

Our review found that the Department stops accruing interest on delinquent employers who file for Chapter 7 and Chapter 11 bankruptcy petitions in accordance with Title 11 of the United States Code (also known as the Bankruptcy Code of 1978, as amended).

*Background:* A Chapter 7 Bankruptcy involves liquidating the debtor’s assets in order to pay off debts. The debtor may or may not be insolvent when the petition is filed. A Chapter 11 Bankruptcy involves reorganizing the business and allows the debtor to keep assets of the business. The court usually approves a Plan of Reorganization for Chapter 11. In both types of Bankruptcies, taxes are not discharged.

*Criteria:* According to Section 31-265 of the General Statutes, contributions unpaid on the date on which the contributions are due and payable “shall bear interest for each month or fraction thereof after such date until payment, plus accrued interest, has been received by the administrator...”

*Condition:* We reviewed eleven employers with delinquent unemployment contribution, interest and penalty balances. All eleven initially filed for Chapter 11 Bankruptcy petitions. Ten of the eleven later converted to Chapter 7 Bankruptcy. Out of the ten, the Department stopped accruing interest on eight of the employers.

*Effect:* If there is a distribution to creditors, the Department may not be paid the total amount of the outstanding contributions, interest and penalty, if interest does not continue to accrue on the outstanding balance of the receivable.

*Cause:* Department personnel indicated that the Department would retroactively calculate all accrued interest on the outstanding balance of the contribution once the bankruptcy petition becomes final and there are assets left to pay the Department after other priority creditors.

*Recommendation:* The Department should continue to accrue interest on the unpaid contributions in accordance with the provisions of Section 31-265 of the General Statutes. (See Recommendation 10).

*Agency Response:* “It would be difficult to adopt the recommendation that we should continue to accrue interest on the unpaid contributions in accordance with the provisions of Section 31-265 because a delinquent employer who has filed Chapter 11 or Chapter 7 has the interest rate determined by the bankruptcy court, which usually differs from the interest rate of one percent per month as established by Section 31-265 of the Connecticut General Statutes.

Our computer system does not allow us to accrue interest [at a rate] less than the annual rate determined by Statute. If a delinquent employer has an interest rate established by the court, the interest accruals can be done manually at the completion of the approved plan of payment. We do not have sufficient staff to manually track each case with different interest rates. In almost all cases, we receive less than the contributions due; therefore, it is not prudent or cost-effective to spend time accounting for interest that we never receive. Any interest we might have collected is extremely negligible and in no case worth the effort and time to track it. See Assistant Attorney General Joan Pilver’s memo dated June 3, 2002 concerning this interest matter that was attached to the Department’s responses.”

*Auditors’ Concluding Comments:*

According to the Assistant Attorney General’s memo, if the Department has a claim for unemployment taxes, as part of its claim for taxes, pre-petition interest and penalties can also be included. Unmatured interest cannot be included as part of the bankruptcy estate. Once a Chapter 7 case is closed, the Department can still pursue post-petition interest. In this case, the employer may or may not have any assets. For Chapter 11 cases, however, the post-petition interest is usually discharged and a plan of payment is ordered.

Our issue however, is whether the General Statutes allows the Department to stop accruing interest on unpaid contributions. Interest accrues automatically on the employer tax system unless the Department manually enters a code to stop the interest from accruing. Interest should be accrued until the bankruptcy court has made a final determination as to whether the receivable will be collected by the Department. By stopping the accrual of interest on delinquent employers, the Department has made the decision that the account is uncollectible. When the receivable is determined to be uncollectible by the bankruptcy court, then the Department should write off the true receivable in accordance with Section 31-266c of the General Statutes, Abatement of contributions.

If the bankruptcy court determines a new interest rate other than the rate established by Section 31-265 of the General Statutes, then the Department can set up a database as specified by the Department in its response to the following recommendation.

## **Chapter 11 Bankruptcy Plan of Reorganization:**

Our review of a Chapter 11 Bankruptcy Plan of Reorganization found that the Department was not aware that an employer had stopped making the required payments in accordance with the Plan of Reorganization.

*Criteria:* Good internal controls require that the Department monitor the receipt of monies from court ordered Chapter 11 Bankruptcy Plan of Reorganization.

*Condition:* Our testing found that an employer had unpaid employer's unemployment contributions, penalty and interest amounting to \$63,586. A Proof of Claim was filed. According to an approved Chapter 11 Bankruptcy Plan of Reorganization, the employer was to pay the Department the amount of \$25,000 on the effective date of the confirmation of the reorganization plan. The balance of \$39,586 was to be paid in monthly installments of \$967, beginning March 1, 1999, with the last payment occurring on April 1, 2003. We found that the Department did not send a notice of non-compliance to the employer even though the employer stopped making scheduled payments in July 2000. As of March 2002, scheduled payments amounting to \$21,261 remain unpaid without accruing additional interest charges.

*Effect:* The Department may not be aggressively pursuing the collection of all monies due. As a result, the Department may not be able to collect on the outstanding balance owed if no asset is left to pay the Department after the employer makes payments to other priority creditors.

*Cause:* The Department was unaware that the employer stopped making scheduled payments in accordance with the approved Chapter 11 Bankruptcy Plan of Reorganization.

*Recommendation:* The Department should track employers with outstanding balances of contributions, scheduled to make payments, in accordance with an approved Chapter 11 Bankruptcy Plan of Reorganization. This will ensure that the employers are making scheduled payments in accordance with the terms of the reorganization plan. (See Recommendation 11).

*Agency Response:* "The Department will create a database of all employers who have court-approved Plans of Payment and review the list on a monthly basis to insure compliance. We will notify the employer of their non-compliance, and we will consult with the AAG's [Assistant Attorney General] office for their recommendations for further action."

## RECOMMENDATIONS

- 1. The Department should consider charging interest on the outstanding balances of overpayments as an inducement for the claimants to pay off the outstanding amounts and as a deterrent to claimants who would collect unemployment compensation benefits they are not entitled to collect.**

Comment:

We found that the Department does not charge interest on fraudulent or non-fraudulent overpayments.

- 2. The Department should enforce the mandatory overpayment repayment schedules it establishes to ensure that claimants who were overpaid continue to make monthly payments in accordance with the terms of their schedules.**

Comment:

We noted that six of the 33 claimants we reviewed, or 18 percent, were making partial and intermittent payments far below the mandatory repayment amount required even though the claimants had wages reported to the Department.

- 3. The Department should promptly send a notice of noncompliance with the mandatory overpayment repayment schedule to claimants who were overpaid and have not made any payment or have stopped making payments on their overpayment. This would enable the Department to promptly start wage garnishment proceedings for those claimants in order to recoup the overpayment.**

Comment:

We noted that the Department had not sent a notice of noncompliance with the mandatory overpayment repayment schedule to eight of 33 claimants we reviewed.

- 4. The Department should establish and implement proper procedures to ensure that claimants' current employers are verified, and that the State Marshals promptly serve the approved court documents for wage garnishment to the correct employers to ensure that the claimants' wages are garnished.**

Comment:

Our review of eight approved wage executions found exceptions with five. These exceptions include a claimant who was no longer working for the employer, the court approved documents were served approximately two years after the State Marshals received the documents, and wage garnishments were sent to an incorrect employer.

- 5. The Department should establish a uniform administrative procedure for the levying officers to follow in remitting the amount collected from wage garnishments.**

**The Department should ensure that the State Marshals are remitting collections from wage executions in accordance with the provisions of Section 6-35 of the General Statutes.**

Comment:

We found that two wage executions given to two different State Marshals were remitted approximately one and a half years later. Section 6-35 of the General Statutes requires the amounts collected to be remitted within 30 days from the date of collection or upon the collection of one thousand dollars, whichever comes first.

- 6. The Department should amend the computer program to capture all claimants with fraudulent overpayment balances that were identified and entered on the accounts receivable system. Those claimants and their balance of overpayment should be included in the accounts receivable list sent to the Department of Administrative Services' (DAS) – Financial Service Center for Department of Revenue Services State income tax refund intercept.**

Comment:

The Department was not including all fraudulent receivables for claimant benefits overpayment in the list sent to the Commissioner of DAS for State income tax refund intercept. We determined that an additional \$7,664,209 in receivables could have been sent for State income tax refund intercept.

- 7. The Department should attempt to identify and collect all overpayments made to claimants who are employed. These overpayments should not be written off because they are eight years old or older.**

Comment:

We reviewed seven fraudulent claims that were written off and found that all the claimants had wages in the calendar year 2000. These wages ranged from \$10,811 to \$55,954.

- 8. The Department should seek legislation to amend Section 31-273, subsection (a) of the General Statutes and Section 31-273-3 of the Regulations of Connecticut State Agencies to have the provisions of Section 12-742 that allows for interception of State income tax refund refunds, apply to non-fraudulent receivables.**

Comment:

Currently, State income tax refund intercept is only used for fraudulent unemployment compensation receivables. The Department does not send non-fraudulent receivables to the Commissioner of DAS – Financial Service Center for State income tax refund intercept because legislation does not allow them to do so. Non-fraudulent receivables as of May 23, 2001 were \$17,520,915.

- 9. The Department should impose the number of administrative penalty weeks for fraud, attempted fraud, and offenses in accordance with Section 31-273-6 of the Regulations of Connecticut State Agencies.**

Comment:

We found that two claimants out of 11 had administrative penalty weeks that were not consistently and correctly imposed.

- 10. The Department should continue to accrue interest on the unpaid contributions in accordance with the provisions of Section 31-265 of the General Statutes.**

Comment:

The Department stops accruing interest on unpaid contributions for employers who file for Chapter 7 or Chapter 11 Bankruptcy prior to a final determination being made by the bankruptcy court.

- 11. The Department should track employers with outstanding balances of contributions in accordance with approved Chapter 11 Bankruptcy Plans of Reorganization. This will ensure that the employers are making scheduled payments in accordance with the terms of the reorganization plan.**

Comment:

Our review found that an employer was scheduled to make payments in accordance with an approved Chapter 11 Bankruptcy Plan of Reorganization. However, the employer stopped making the payments in July 2000. As of March 2002, scheduled payments amounting to \$21,261 remain unpaid without accruing additional interest charges.

**CONCLUSION**

We wish to express our appreciation for the cooperation and courtesy extended to our representatives by the Labor Department during this examination.

JoAnne Sibiga  
Principal Auditor

Approved:

Kevin P. Johnston  
Auditor of Public Accounts

Robert G. Jaekle  
Auditor of Public Accounts